

UNOFFICIAL TRANSLATION

Decree No 352 of August 8, 2005

On Prevention of the Consequences of Trafficking in Human Beings

In order to establish a legal and institutional framework for providing with proper protection persons who have suffered from criminal activities related to trafficking in human beings:

1. To identify the victims of trafficking in human beings as natural persons, towards whom actions envisaged by Article 181 of the Criminal Code of the Republic of Belarus have been taken, or other actions directed at using them, and aimed at sexual or other exploitation the responsibility for which is envisaged by Articles 171, 171¹, 182, and 187 of the Criminal Code of the Republic of Belarus, and, because of their having been committed within or outside the territory of the Republic of Belarus, criminal prosecution has been (or is being) carried out.

2. Protective measures towards the victims of trafficking shall entail:

- ensuring their security;
- providing for their social protection and rehabilitation;
- rendering assistance to them through diplomatic missions and consulate offices of the Republic of Belarus.

3. Ensuring the security of the victims of trafficking, including members of their families, close relatives and other individuals whom they reasonably consider to be close, as well as their property, shall be carried out according to the procedures established by the Criminal and Procedures Code of the Republic of Belarus, to guarantee the security of the participants of the criminal proceedings, other individuals and their property.

4. Social protection and rehabilitation of the victims of trafficking shall be provided free of charge and include:

4.1. the granting of temporary shelters, including sleeping accommodation and meals, to the victims of trafficking:

4.1.1. to those who have reached the age of 15: for a term of up to 30 days in rehabilitation shelters, which can be created by the local executive and administrative bodies as parts of the authority's public centers for social services. If such shelters are not available, temporary housing shall be provided by the authority's public centers for social services, in cooperation with the local executive and administrative bodies through other organizations, and shall be covered out of the funds of the respective local budgets;

4.1.2. to those aged 3 to 15: for a term of up to 6 months in the social shelters for children;

4.1.3. to those aged up to 3 years: at the state health organizations;

4.2. legal assistance (including the explanation of their rights and responsibilities, as set out in the legislation of the Republic of Belarus), as well as a free representation provided by the Bar. Legal assistance to the victims of Trafficking under the age of 14, is provided by their legal representatives;

4.3. medical assistance, provided by state health organizations in the form of the required medical services, in accordance with the list determined by the Ministry of Health, as well as treatment in hospital, regardless of the place the permanent residence of the victim of trafficking in human beings;

4.4. psychological assistance in the form of psycho-preventative, psycho-diagnostic, psycho-correctional measures and psychological consulting, as well as the socio-pedagogical assistance;

4.5. search for the families of minor victims of trafficking in human beings, or placing them into the other families for fostering, or in the event that this is not possible, putting them into boarding institutions for children;

4.6. assistance in securing permanent employment;

4.7. other assistance provided according to the decisions made by the Local Councils of Deputies, executive and administrative bodies.

5. with the aim of bringing the victims of trafficking in human beings back to favorable conditions of life, criminal prosecution bodies shall send them to:

5.1. regional public centers for social services, to carry out those measures for social protection and rehabilitation determined by subparagraphs 4.1.1, 4.2 – 4.7 of paragraph 4 of this Decree, in respect of those of the age of 15 years or above;

5.2. social shelters for children to carry out the measures for social protection and rehabilitation determined by subparagraphs 4.1.2, 4.2 – 4.5 and 4.7 of paragraph 4 of this Decree, as regards those between 3 and 15 years old;

5.3. state health institutions of the local executive and administrative bodies to carry out the measures for social protection and rehabilitation determined by subparagraphs 4.1.3, 4.2 – 4.5 and 4.7 of paragraph 4 of this Decree, as regards those up to 3 years old.

6. The organization of social protection and rehabilitation of the victims of trafficking in human beings shall be implemented:

6.1. by the labor and social protection institutions of local executive and administrative bodies – as regards the victims of trafficking in human beings aged 15 years old and over, determined by subparagraphs 4.1.1, 4.2 and 4.4 of paragraph 4 of this Decree;

6.2. by the education institutions of local executive and administrative bodies – as regards the victims of trafficking in human beings of the age of 3 to 15 years old, determined by subparagraphs 4.1.2, 4.2 and 4.4 of paragraph 4 of this Decree, and as regards the victims of trafficking in human beings aged 3 to 18 years old, determined by subparagraph 4.5 of paragraph 4 of this Decree;

6.3. by the state health institutions of local executive and administrative bodies as regards the help, specified in subparagraph 4.3 of paragraph 4 of this Decree, and as regards the victims of trafficking in human beings up to 3 years of age, determined by subparagraphs 4.1.3, 4.2, 4.4 and 4.5 of paragraph 4 of this Decree;

6.4. by the state employment institutions of local executive and administrative bodies – in respect of the help determined by subparagraph 4.6 of paragraph 4 of this Decree.

7. Neither deportation nor other enforcement measures in respect of legal administrative responsibility for actions considered as violations of the law of the Republic of Belarus shall be applied to the victim of trafficking in human beings, if they have been committed as a result of the circumstances emerging from the crime committed against the victim of trafficking in human beings.

8. The diplomatic representative offices and consulate institutions of the Republic of Belarus:

8.1. shall elucidate the regulations of the legislation of the Republic of Belarus, and those of the country of their stay, to citizens of the Republic of Belarus, victims of trafficking in human beings;

8.2. shall undertake necessary actions to ensure the observance of legislation on the trafficking in human beings in the country of their stay in respect of citizens of the Republic of Belarus;

8.3. shall secure the repatriation of citizens of the Republic of Belarus who are victims of trafficking in human beings, to the countries of their permanent residence;

8.4. shall undertake other actions to protect citizens of the Republic of Belarus, victims of trafficking in human beings, as envisaged by the legislation, including the international treaties of the Republic of Belarus.

9. The resources expended on actions to protect the victims of trafficking in human beings shall be judicially recovered by the person(persons) who committed a crime involving trafficking in human beings, at lawsuits initiated by local executive and administrative bodies, regional public centers for social services, social shelters for children or by the prosecutor.

10. A foreign national or a stateless citizen, a victim of trafficking in human beings, who is actively assisting the investigation of a crime entailing trafficking in human beings, and whose term for staying on the territory of Belarus has expired, shall be given, by the bodies of internal affairs, as determined by the legislation, a temporary permit to stay in Belarus, generally for a period of no more than one year, to allow for his/her participation in the legal proceedings, social protection and rehabilitation.

11. Measures on protecting the victims of trafficking in human beings, envisaged by this Decree, shall not be applied, and those being applied shall be revoked, if the victim of trafficking in human beings is impeding the initial investigation or the legal proceedings of the criminal case.

12. The Council of Ministers of the Republic of Belarus, before October 1, 2005, in coordination with the Oblast executive committees and Minsk city executive committee:

- shall submit for the consideration of the President of the Republic of Belarus proposals on the necessity of establishing rehabilitation shelter for the victims of trafficking in human beings;
- shall ensure the existing legal acts are adjusted in accordance with this Decree, and undertake other measures to secure its implementation.

13. The Ministry of Health, before October 1, 2005, shall approve the list of free medical services provided for the victims of trafficking in human beings.

14. Local Councils of Deputies, while considering respective draft budgets for the forthcoming financial year, shall allocate funds for financing measures on protecting the victims of trafficking in human beings

15. This Decree shall come into force as from October 1, 2005, with the exception of paragraphs 12 –14 and this paragraph, which shall come into force on the day of the official promulgation of this Decree.

The President of the Republic of Belarus A. Lukashenko